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December 13, 2002

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To: Community Based Alternatives (CBA) Consumer Directed Services (CDS) Agencies

Subject: Long Term Care (LTC)  
Information Letter No. 02-38  
Implementation of the Consumer Directed Services (CDS) Option

In compliance with Senate Bill 1586 of the 76<sup>th</sup> Legislature, the Texas Department of Human Services (DHS) will implement the Consumer Directed Services (CDS) option in the Community Based Alternatives (CBA) program effective January 1, 2003. DHS offers this option in other programs, which is currently known as the Vendor Fiscal Intermediary (VFI) option. DHS plans to submit a technical change to Chapter §41 Vendor Fiscal Intermediary (VFI) Payments to Consumer Directed Services. The CDS option provides consumer-directed and consumer-managed services. The CDS option is not a new program but is a service model with a different payment option being offered under existing programs for particular services. A CBA client may choose the CDS option for their Personal Assistance Services (PAS) and Respite Services, including In-Home and Out-of-Home Respite Services. If the CDS option is chosen, both services must be included.

The CDS rules and corresponding procedures are incorporated to Section 9000 of the CBA Provider Manual. This new policy must be followed effective January 1, 2003 in providing CDS services to CBA clients. Please note that as a CBA CDS agency, Section 1000-2000 and Sections 6000-9000 of the CBA Provider Manual will apply to your agency. The new Section 9000 should be added to the CBA Provider Manual until a manual revision is distributed.

The CDS agency policy and forms may be accessed at:

<http://www.dhs.state.tx.us/programs/communitycare/cds/index.html>

**REFERRAL PROCESS**

DHS case managers will offer every new CBA applicant an opportunity to participate in the CDS option. Current CBA clients will be offered the opportunity to participate in the CDS

option at their annual review or upon request. All CBA clients must receive services through the Agency Option prior to participating in the CDS option.

Once a client has requested the CDS option, the DHS case manager will verify the client's interest in the CDS option at the client's initial service monitoring. If the client is still interested in the CDS option, the case manager will send Form 2067, Case Information, to the client's chosen CDS agency informing them of the client's choice, and giving notice that the client will be contacting the CDS agency to schedule training.

### **CDS AGENCY PROCEDURES**

It is the responsibility of the CBA CDS client to contact their chosen CDS agency to schedule training. The CDS agency has 30 calendar days from the signature date of the Form 2067 to train the client in the CDS option, and inform the case manager via Form 2067 that the training has been completed. If the CDS agency is unable to complete the training within the 30-day period, they must submit a Form 2067 to the case manager within the original 30-day timeframe. The 2067 must indicate the reason the CDS agency has been unable to complete the client training. Only circumstances out of the control of the CDS agency are acceptable reasons for delay.

Once the CDS client has contacted the CDS agency to schedule training, the CDS agency must schedule training with the CDS client, in person, at a mutually agreeable time. The initial training must take place in person at the CDS client's home. If the client wishes to appoint a Designated Responsible Party (DRP), this person must also be present at the initial training. Please note that if the client changes DRP, the CDS agency is not required to train the new DRP.

The training must cover the information provided in the Client Training Guide, and required by 40 Texas Administrative Code (TAC) §41, Vendor Fiscal Intermediary Payments. You may access the TAC at the Secretary of States's Website at:

[http://info.sos.state.tx.us/pub/plsql/readtac\\$ext.ViewTAC?tac\\_view=4&ti=40&pt=1&ch=41&rl=y](http://info.sos.state.tx.us/pub/plsql/readtac$ext.ViewTAC?tac_view=4&ti=40&pt=1&ch=41&rl=y)

Once the CDS client has been trained by the CDS agency, the CDS agency takes on the role of Fiscal Agent for the CDS client. By choosing the CDS option, a CBA client will be responsible for all personal assistance services and respite services provided under the CDS option. The CDS agency is not responsible for providing any personal assistance services (including back-up services) or respite services, if the client has chosen to receive his services under the CDS option. A client participating in the CDS option may contract with a DHS contracted CBA Home and Community Support Services (HCSS) agency to provide back-up services or a DHS contract Respite provider for respite services. The provider is not required to enter into a contract/service agreement with a CDS client to provide these services.

With the passage of House Bill (HB) 456, a CDS client may choose to supervise the attendant performing certain nursing tasks. HB 456 is included as Appendix B to the Form 1522 Service Agreement Between the CDS Client and Employee.

The CDS client is responsible for submitting all attendant timesheets to the CDS agency within the timeframes required by the CDS agency. As the client's fiscal agent, the CDS agency is responsible for processing payroll, and making employer tax payments on behalf of the CDS client. If the client meets the agreed upon payroll deadlines, the CDS agency must pay the client's attendants on the agreed upon payday. The CDS agency must process payroll and pay the CDS client's attendant(s) at least twice monthly.

The CDS agency is also responsible for acting as the client's agent with the Texas Workforce Commission (TWC) for State Unemployment Tax payments and claims, as well as the Texas Workers' Compensation Commission (TWCC) payments and claims.

If the CDS agency feels the client is unable or unwilling to comply with the CDS option rules, the CDS agency should submit documentation supporting this claim to the CDS client's DHS case manager. The DHS caseworker and his supervisor will review the documentation and determine if it supports ending the client's participation in the CDS option. If the documentation supports removal from the CDS option, the client will be given the opportunity to voluntarily change prior to being changed to the agency option involuntarily. The client will be offered the opportunity to appeal the change to the agency option.

A client who leaves the CDS option for any reason (voluntary or involuntary), and wishes to return to the CDS option, is required to receive services in the agency option for a minimum of three months (90 days) before being eligible to return to the CDS option.

## **BILLING PROCESS**

Once the CDS agency has made payments on behalf of the client, a request for reimbursement may be submitted to DHS. New service codes and bill codes have been established for the CDS option in the CBA program:

<b><u>Description</u></b>	<b><u>Service Code</u></b>	<b><u>Bill Code</u></b>
<b>Personal Assistance Services</b>		
VFI-Personal Assistance Services (PAS)	17V	G0717
VFI –Personal Assistance Services (PAS)-Administrative portion	17V	G0719
<b>In-Home Respite</b>		
Respite In-Home	11	G0101
Respite In-Home VFI Administrative portion	11	G0171

**Out-of-Home Respite**

Adult Foster Care—Administrative portion	11B	G0172
Assisted Living Residential Care Apt.	11CV	G0173
Assisted Living Residential Care Apt. Administrative portion	11 CV	G0174
Assisted Living Residential Care Apt.	11DV	G0175
Assisted Living Residential Care Apt. Administrative portion	11DV	G0176
Assisted Living Residential Care Non-Apt.	11EV	G0177
Assisted Living Residential Care Non-Apt. Administrative portion	11EV	G0178
Nursing Facility	11FV	G0179
Nursing Facility Administrative portion	11FV	G0180
Consumer Managed Personal Assistant Services (CMPAS)-VFI	27A	G0722

**MONITORING**

A monitoring form for the CDS option will be developed in the near future. All contracted CBA CDS agencies will be trained on the monitoring instrument prior to implementation.

Please contact you contract manager if you have any further questions regarding this information. Contract managers should contact Rudy Gomez at (512) 438-3740 if they have any questions.

Sincerely,

**Signature on file**

Becky Beechinor  
Assistant Deputy Commissioner  
Long Term Care Services

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